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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-971

**KRISTA JANE TIERCE, AKA KRISTA
JANE JUETTEN**

A C C U S A T I O N

1813 South Dora Street
Ukiah, California 95482

Vocational Nurse License No. VN 169068

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about September 20, 1994, the Board of Vocational Nursing and
Psychiatric Technicians issued Vocational Nurse License Number VN 169068 to Krista Jane
Tierce, also known as Krista Jane Juetten (Respondent). The Vocational Nurse License was in
full force and effect at all times relevant to the charges brought herein and will expire on
December 31, 2009, unless renewed.

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(h) Impersonating another practitioner, misrepresenting professional credentials or licensure status, or permitting another person to use his or her certificate or license.

...

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee. . . .

8. Section 2878.5 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . . .

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 2521, states, in pertinent

part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

...

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

...
(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

10. California Code of Regulations, title 16, section 2518.6, states, in pertinent part:

...
(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following: ...

(4) Abstaining from chemical/substance abuse; ...

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action. ...

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

12. **Fioricet** is the brand name for Butalbital APAP Caffeine, a dangerous drug within the meaning of Code section 4022. It contains 50 mg of butalbital, a barbiturate and a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (c)(3). Extended use of this product is not recommended because of the potential for physical dependence. It is indicated for the treatment of tension headaches and migraine headaches.

13. **Codeine Phosphate/APAP** is commonly known by its trade name Tylenol No. 3 or Tylenol No. 4 (Tylenol with Codeine). Tylenol is a brand name for acetaminophen, a synthetic non-opioid analgesic used extensively in the treatment of mild to moderate pain and fever. Codeine is a mild opioid analgesic used for relief of mild to moderate pain, often administered in combination with acetaminophen or aspirin. Acetaminophen and codeine

1 together produce a greater analgesic effect than either used alone and is used for the relief of mild
2 to moderate pain. Codeine preparations are subject to control as Schedule III controlled
3 substances as designated by Health and Safety Code section 11055, subdivision (e)(2), and are
4 dangerous drugs within the meaning of Code section 4022.

5 14. "Vicodin" is the brand name for Hydrocodone Bitartrate (a semisynthetic
6 narcotic analgesic and antitussive with multiple actions qualitatively similar to those of codeine)
7 & Acetaminophen. It is a Schedule III controlled substance pursuant to Health and Safety Code
8 section 11056, subdivision (e)(4), and a dangerous drug pursuant to Business and Professions
9 Code section 4022.

10 FACTUAL STATEMENT

11 15. From on or about April 1, 2006 to November 28, 2006, Respondent
12 worked as a licensed vocational nurse at Ukiah Valley Medical Center located in Ukiah,
13 California. During the course of her employment, Respondent admitted to and committed the
14 following acts:

15 a. On or about October 27, 2006, Respondent called in a prescription under
16 the assumed name of co-worker Peggy Vatalaro, RN, to Walmart Pharmacy for 30 tablets of
17 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
18 name "Juetten".

19 b. On or about October 27, 2006, Respondent called in a prescription under
20 the assumed name of co-worker Peggy Vatalaro, RN, to Walmart Pharmacy for 30 tablets of
21 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled on or about
22 November 2, 2006 under the name "Juetten".

23 c. On or about November 9, 2006, Respondent called in a prescription under
24 the assumed name of co-worker Peggy Vatalaro, RN, to Walmart Pharmacy for 30 tablets of
25 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
26 name "Juetten".

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1 d. On or about August 2, 2006, Respondent called in a prescription under the
2 assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
3 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
4 name "Tierce".

5 e. On or about August 8, 2006, Respondent called in a prescription under the
6 assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
7 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
8 name "Tierce".

9 f. On or about September 12, 2006, Respondent called in a prescription
10 under the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets
11 of Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
12 name "Tierce".

13 g. On or about September 22, 2006, Respondent called in a prescription
14 under the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets
15 of Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
16 name "Tierce".

17 h. On or about October 4, 2006, Respondent called in a prescription under
18 the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
19 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
20 name "Tierce".

21 i. On or about October 11, 2006, Respondent called in a prescription under
22 the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
23 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
24 name "Tierce".

25 j. On or about October 14, 2006, Respondent called in a prescription under
26 the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
27 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
28 name "Tierce".

1 k. On or about October 24, 2006, Respondent called in a prescription under
2 the assumed name of co-worker Peggy Vatalaro, RN, to Blue Drug Pharmacy for 30 tablets of
3 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
4 name "Tierce".

5 l. On or about September 15, 2006, Respondent called in a prescription
6 under the assumed name of co-worker Peggy Vatalaro, RN, to Ride Aid Pharmacy for 30 tablets
7 of Codeine Phosphate/APAP purportedly prescribed by Dr. Walter Bortz. The prescription was
8 filled under the name "Juetten".

9 m. On or about September 22, 2006, Respondent called in a prescription
10 under the assumed name of co-worker Peggy Vatalaro, RN, to Ride Aid Pharmacy for 30 tablets
11 of Codeine Phosphate/APAP purportedly prescribed by Dr. Walter Bortz. The prescription was
12 filled under the name "Juetten".

13 n. On or about October 16, 2006, Respondent called in a prescription under
14 the assumed name of co-worker Peggy Vatalaro, RN, to Long's Drugs Pharmacy for 60 tablets of
15 Codeine Phosphate/APAP purportedly prescribed by Dr. Robert Calson. The prescription was
16 filled under the name "Juetten".

17 o. On or about October 23, 2006, Respondent called in a prescription under
18 the assumed name of co-worker Peggy Vatalaro, RN, to Long's Drugs Pharmacy for 60 tablets of
19 Codeine Phosphate/APAP purportedly prescribed by Dr. Robert Calson. The prescription was
20 filled under the name "Juetten".

21 p. On or about November 14, 2006, Respondent called in a prescription
22 under the assumed name of co-worker Peggy Vatalaro, RN, to Long's Drugs Pharmacy for 60
23 tablets of Codeine Phosphate/APAP purportedly prescribed by Dr. Robert Calson. The
24 prescription was filled under the name "Juetten".

25 q. On or about November 6, 2006, Respondent called in a prescription under
26 the assumed name of co-worker Peggy Vatalaro, RN, to Long's Drugs Pharmacy for 40 tablets of
27 Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled under the
28 name "Juetten".

1 r. On or about November 14, 2006, Respondent called in a prescription
2 under the assumed name of co-worker Peggy Vatalaro, RN, to Long's Drugs Pharmacy for 40
3 tablets of Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled
4 under the name "Juetten".

5 s. On or about November 11, 2006, Respondent called in a prescription
6 under the assumed name of co-worker Peggy Vatalaro, RN, to Walgreen's Pharmacy for 30
7 tablets of Fioricet purportedly prescribed by Dr. Robert Calson. The prescription was filled
8 under the name "Juetten".

9 t. On or about September 25, 2006, Respondent had a prescription filled at
10 Walmart Pharmacy for 20 tablets of Fioricet purportedly prescribed by Dr. Theron Chan. The
11 prescription was filled under the name "Juetten".

12 u. On or about September 27, 2006, Respondent had a prescription filled at
13 Walmart Pharmacy for 30 tablets of Vicodin purportedly prescribed by Dr. Theron Chan. The
14 prescription was filled under the name "Juetten".

15 v. On or about September 15, 2006, Respondent had a prescription filled at
16 Rite Aid Pharmacy for 30 tablets of Codeine Phosphate/APAP purportedly prescribed by Dr.
17 Michael Bortz/RN Anne Retallick. The prescription was filled under the name "Juetten".

18 w. On or about September 22, 2006, Respondent had a prescription filled at
19 Rite Aid Pharmacy for 30 tablets of Codeine Phosphate/APAP purportedly prescribed by Dr.
20 Michael Bortz/RN Anne Retallick. The prescription was filled under the name "Juetten".

21 16. On or about November 28, 2006, Respondent was terminated from her
22 employment at Ukiah Valley Medical Center.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 17. Respondent is subject to disciplinary action under Code sections 490 and
4 2878, subdivision (f), in that she was convicted of a crime substantially related to the
5 qualifications, functions, and duties of a Licensed Vocational Nurse, within the meaning of
6 California Code of Regulations, title 16, section 2521, subdivision (f). The circumstances are as
7 follows:

8 a. On or about August 20, 2008, in the criminal proceeding People v. Krista
9 Juettten, Mendocino County Superior Court Case No. MCUK-CRCR-08084642002,
10 Respondent was convicted by a guilty plea of violating Business and Professions Code section
11 4324, subdivision (a), (Forgery of a Prescription), a felony. The underlying circumstances of said
12 crime involved the matters set forth in Paragraph 16, subparagraphs (d) - (o) and (t) - (w).

13 b. Respondent was sentenced to serve 18 months of informal probation and
14 ordered to pay restitution, fines and to comply with other terms and conditions. If Respondent
15 successfully completes the terms of her probation and if she completes 80 hours of community
16 service, the conviction will be reduced from a felony to a misdemeanor pursuant to Penal Code
17 section 1203.4.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Substance Abuse)**

20 18. Respondent is subject to disciplinary action under Code section 2878,
21 subdivision (a), in that she did not abstain from chemical/substance abuse and, therefore, did not
22 adhere to standards of the profession and did not incorporate ethical and behavioral standards of
23 professional practice, within the meaning of California Code of Regulations, title 16, section
24 2518.6, subdivision (b)(4), as more particularly set forth in Paragraph 16, subparagraphs (a) - (s).

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Impersonating Another Practitioner)**

3 19. Respondent is subject to disciplinary action under Code section 2878,
4 subdivision (h), in that she impersonated another practitioner while calling in invalid
5 prescriptions for controlled substances, as more particularly set forth in Paragraph 16,
6 subparagraphs (a) - (s).

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty)**

9 20. Respondent is subject to disciplinary action under Code section 2878,
10 subdivision and (j), in that by calling in prescriptions while impersonating another licensee and
11 without a valid prescription, she committed acts involving dishonesty and which were related to
12 the duties and functions of her licensee, as more particularly set forth in Paragraph 16,
13 subparagraphs (a) - (s).

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct: Illegal Drug Possession)**

16 21. Respondent is subject to disciplinary action under Code section 2878.5,
17 subdivision (a), in that she obtained, possessed, and administered to herself controlled substances
18 and dangerous drugs in violation of the law, as more particularly set forth in Paragraph 16,
19 subparagraphs (a) - (s).

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Illegal Drug Use)**

22 22. Respondent is subject to disciplinary action under Code section 2878.5,
23 subdivision (b), in that from on or about August 2, 2006 through on or about November 14,
24 2006, she engaged in unprofessional conduct by using controlled substances in a manner
25 dangerous to herself and others, as more particularly set forth in Paragraph 16, subparagraphs (a)
26 - (s).

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking or suspending Vocational Nurse License Number VN 169068,
6 issued to Krista Jane Tierce, a.k.a. Krista Jane Juetten.

7 2. Ordering Krista Jane Tierce to pay the Board of Vocational Nursing and
8 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
9 pursuant to Business and Professions Code section 125.3; and

10 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: January 23, 2009

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15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Board of Vocational Nursing and Psychiatric Technicians
18 Department of Consumer Affairs
19 State of California
20 Complainant

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